

103D CONGRESS
1ST SESSION

S. 1426

To amend title XVIII of the Social Security Act and the Budget and Emergency Deficit Control Act of 1985 with respect to essential access community hospitals, the rural transition grant program, durable medical equipment, adjustments to discretionary spending limits, standards for medicare supplemental insurance policies, expansion and revision of medicare select policies, psychology services in hospitals, payment for anesthesia services furnished directly or concurrently in providers, improve reimbursement for clinical social worker services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, JUNE 30), 1993

Mr. CONRAD (for himself, Mr. INOUE, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act and the Budget and Emergency Deficit Control Act of 1985 with respect to essential access community hospitals, the rural transition grant program, durable medical equipment, adjustments to discretionary spending limits, standards for medicare supplemental insurance policies, expansion and revision of medicare select policies, psychology services in hospitals, payment for anesthesia services furnished directly or concurrently in providers, improve reimbursement for clinical social worker services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Essential Medicare Amendments of 1993”.

6 (b) REFERENCES IN ACT.—Except as otherwise spe-
 7 cifically provided, whenever in this Act, an amendment is
 8 expressed in terms of an amendment to or repeal of a sec-
 9 tion or other provision, the reference shall be considered
 10 to be made to that section or other provision of the Social
 11 Security Act.

12 **SEC. 2. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH)**
 13 **AMENDMENTS.**

14 (a) INCREASING NUMBER OF PARTICIPATING
 15 STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1))
 16 is amended by striking “7” and inserting “9”.

17 (b) TREATMENT OF INPATIENT HOSPITAL SERVICES
 18 PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

19 (1) IN GENERAL.—Section 1820(f)(1)(F) (42
 20 U.S.C. 1395i-4(f)(1)(F)) is amended to read as fol-
 21 lows:

22 “(F) subject to paragraph (4), provides not
 23 more than 6 inpatient beds (meeting such con-
 24 ditions as the Secretary may establish) for pro-
 25 viding inpatient care to patients requiring sta-

1 bilization before discharge or transfer to a hos-
2 pital, except that the facility may not provide
3 any inpatient hospital services—

4 “(i) to any patient whose attending
5 physician does not certify that the patient
6 may reasonably be expected to be dis-
7 charged or transferred to a hospital within
8 72 hours of admission to the facility; or

9 “(ii) consisting of surgery or any
10 other service requiring the use of general
11 anesthesia (other than surgical procedures
12 specified by the Secretary under section
13 1833(i)(1)(A)), unless the attending physi-
14 cian certifies that the risk associated with
15 transferring the patient to a hospital for
16 such services outweighs the benefits of
17 transferring the patient to a hospital for
18 such services.”.

19 (2) LIMITATION ON AVERAGE LENGTH OF
20 STAY.—Section 1820(f) (42 U.S.C. 1395i–4(f)) is
21 amended by adding at the end the following new
22 paragraph:

23 “(4) LIMITATION ON AVERAGE LENGTH OF IN-
24 PATIENT STAYS.—The Secretary may terminate a
25 designation of a rural primary care hospital under

1 paragraph (1) if the Secretary finds that the average
2 length of stay for inpatients at the facility during
3 the previous year in which the designation was in ef-
4 fect exceeded 72 hours. In determining the compli-
5 ance of a facility with the requirement of the pre-
6 vious sentence, there shall not be taken into account
7 periods of stay of inpatients in excess of 72 hours
8 to the extent such periods exceed 72 hours because
9 transfer to a hospital is precluded because of inclem-
10 ent weather or other emergency conditions.”.

11 (3) CONFORMING AMENDMENT.—Section
12 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by
13 striking “such services” and all that follows and in-
14 serting “the individual may reasonably be expected
15 to be discharged or transferred to a hospital within
16 72 hours after admission to the rural primary care
17 hospital.”.

18 (4) GAO REPORTS.—Not later than 2 years
19 after the date of the enactment of this Act, the
20 Comptroller General shall submit reports to the Con-
21 gress on—

22 (A) the application of the requirements
23 under paragraphs (1)(F) and (4) of section
24 1820(f) of the Social Security Act (as amended
25 by this subsection); and

1 (B) the extent to which such requirements
 2 have resulted in such hospitals providing inpa-
 3 tient care beyond their capabilities or have lim-
 4 ited the ability of such hospitals to provide
 5 needed services.

6 (c) DESIGNATION OF HOSPITALS.—

7 (1) PERMITTING DESIGNATION OF HOSPITALS
 8 LOCATED IN URBAN AREAS.—

9 (A) IN GENERAL.—Section 1820 (42
 10 U.S.C. 1395i-4) is amended—

11 (i) by striking paragraph (1) of sub-
 12 section (e) and redesignating paragraphs
 13 (2) through (6) of subsection (e) as para-
 14 graphs (1) through (5);

15 (ii) in subsection (e)(1)(A), as redesign-
 16 nated by subparagraph (A)—

17 (I) by striking “is located” and
 18 inserting “except in the case of a hos-
 19 pital located in an urban area, is lo-
 20 cated”

21 (II) by striking “, (ii)” and in-
 22 serting “or (ii)”, and

23 (III) by striking “or (iii)” and all
 24 that follows through “section,”; and

1 (iii) in subsection (i)(1)(B), by strik-
 2 ing “paragraph (3)” and inserting “para-
 3 graph (2)”.

4 (B) NO CHANGE IN MEDICARE PROSPEC-
 5 TIVE PAYMENT.—Section 1886(d)(5)(D) (42
 6 U.S.C. 1395ww(d)(5)(D)) is amended—

7 (i) in clause (iii)(III), by inserting “lo-
 8 cated in a rural area and” after “that is”,
 9 and

10 (ii) in clause (v), by inserting “located
 11 in a rural area and” after “in the case of
 12 a hospital”.

13 (2) PERMITTING HOSPITALS LOCATED IN AD-
 14 JOINING STATES TO PARTICIPATE IN STATE PRO-
 15 GRAM.—

16 (A) IN GENERAL.—Section 1820 (42
 17 U.S.C. 1395i-4) is amended—

18 (i) by redesignating subsection (k) as
 19 subsection (l); and

20 (ii) by inserting after subsection (j)
 21 the following new subsection:

22 “(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN
 23 PARTICIPATING STATES.—Notwithstanding any other
 24 provision of this section—

1 “(1) for purposes of including a hospital or fa-
 2 cility as a member institution of a rural health net-
 3 work, a State may designate a hospital or facility
 4 that is not located in the State as an essential access
 5 community hospital or a rural primary care hospital
 6 if the hospital or facility is located in an adjoining
 7 State and is otherwise eligible for designation as
 8 such a hospital;

9 “(2) the Secretary may designate a hospital or
 10 facility that is not located in a State receiving a
 11 grant under subsection (a)(1) as an essential access
 12 community hospital or a rural primary care hospital
 13 if the hospital or facility is a member institution of
 14 a rural health network of a State receiving a grant
 15 under such subsection; and

16 “(3) a hospital or facility designated pursuant
 17 to this subsection shall be eligible to receive a grant
 18 under subsection (a)(2).”.

19 (B) CONFORMING AMENDMENTS.—(i) Sec-
 20 tion 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is
 21 amended by striking “paragraph (3)” and in-
 22 serting “paragraph (3) or subsection (k)”.

23 (ii) Paragraphs (1)(A) and (2)(A) of sec-
 24 tion 1820(i) (42 U.S.C. 1395i-4(i)) are each
 25 amended—

1 (I) in clause (i), by striking “(a)(1)”
2 and inserting “(a)(1) (except as provided
3 in subsection (k))”, and

4 (II) in clause (ii), by striking “sub-
5 paragraph (B)” and inserting “subpara-
6 graph (B) or subsection (k)”.

7 (d) SKILLED NURSING SERVICES IN RURAL PRIMARY
8 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-
9 4(f)(3)) is amended by striking “because the facility” and
10 all that follows and inserting the following: “because, at
11 the time the facility applies to the State for designation
12 as a rural primary care hospital, there is in effect an
13 agreement between the facility and the Secretary under
14 section 1883 under which the facility’s inpatient hospital
15 facilities are used for the furnishing of extended care serv-
16 ices, except that the number of beds used for the furnish-
17 ing of such services may not exceed the total number of
18 licensed inpatient beds at the time the facility applies to
19 the State for such designation (minus the number of inpa-
20 tient beds used for providing inpatient care pursuant to
21 paragraph (1)(F)). For purposes of the previous sentence,
22 the number of beds of the facility used for the furnishing
23 of extended care services shall not include any beds of a
24 unit of the facility that is licensed as a distinct-part skilled

1 nursing facility at the time the facility applies to the State
 2 for designation as a rural primary care hospital.”.

3 (e) PAYMENT FOR OUTPATIENT RURAL PRIMARY
 4 CARE HOSPITAL SERVICES.—Section 1834(g)(1) (42
 5 U.S.C. 1395m(g)(1)) is amended by adding at the end the
 6 following:

7 “The amount of payment shall be determined under
 8 either method without regard to the amount of the
 9 customary or other charge.”.

10 (f) CLARIFICATION OF PHYSICIAN STAFFING RE-
 11 QUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—
 12 Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is
 13 amended by striking the period and inserting the follow-
 14 ing: “, except that in determining whether a facility meets
 15 the requirements of this subparagraph, subparagraphs (E)
 16 and (F) of that paragraph shall be applied as if any ref-
 17 erence to a ‘physician’ is a reference to a physician as de-
 18 fined in section 1861(r)(1).”.

19 (g) TECHNICAL AMENDMENTS RELATING TO PART
 20 A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILL-
 21 NESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1))
 22 is amended—

23 (A) by striking “inpatient hospital services” the
 24 first place it appears and inserting “inpatient hos-

1 pital services or inpatient rural primary care hos-
2 pital services”;

3 (B) by striking “inpatient hospital services” the
4 second place it appears and inserting “such serv-
5 ices”; and

6 (C) by striking “and inpatient rural primary
7 care hospital services”.

8 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.
9 1395e(a), 1395e(b)(3)(A)) are each amended by striking
10 “inpatient hospital services” each place it appears and in-
11 serting “inpatient hospital services or inpatient rural pri-
12 mary care hospital services”.

13 (3) Section 1813(b)(3)(B) (42 U.S.C.
14 1395e(b)(3)(B)) is amended by striking “inpatient hos-
15 pital services” and inserting “inpatient hospital services,
16 inpatient rural primary care hospital services,”.

17 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is amend-
18 ed—

19 (A) in paragraph (1), by striking “inpatient
20 hospital services” and inserting “inpatient hospital
21 services, inpatient rural primary care hospital serv-
22 ices,”; and

23 (B) in paragraph (2), by striking “hospital”
24 and inserting “hospital or rural primary care hos-
25 pital”.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—Section
 2 1820(l) (42 U.S.C. 1395i-4(l)), as redesignated by sub-
 3 section (c)(2), is amended by striking “1990, 1991, and
 4 1992” and inserting “1990 through 1995”.

5 (i) EFFECTIVE DATE.—The amendments made by
 6 this section shall take effect on the date of the enactment
 7 of this Act.

8 **SEC. 3. REAUTHORIZATION OF RURAL TRANSITION GRANT**
 9 **PROGRAM.**

10 Section 4005(e)(9) of the Omnibus Budget Reconcili-
 11 ation Act of 1987, as amended by section 6003(g)(1)(B)
 12 of the Omnibus Budget Reconciliation Act of 1989, is
 13 amended by striking “1992” and inserting “1992 and
 14 \$30,000,000 for each of fiscal years 1993 through 1997”.

15 **SEC. 4. DURABLE MEDICAL EQUIPMENT.**

16 (a) DEFINITION OF MEDICAL EQUIPMENT AND SUP-
 17 PLIES.—

18 (1) IN GENERAL.—Section 1861 (42 U.S.C.
 19 1395x) is amended by adding at the end the follow-
 20 ing new subsection:

21 “MEDICAL EQUIPMENT AND SUPPLIES
 22 “(oo) The term ‘medical equipment and supplies’
 23 means—

24 “(1) durable medical equipment (as defined in
 25 section 1861(n));

1 “(2) prosthetic devices (as described in section
2 1861(s)(8));

3 “(3) orthotics and prosthetics (as described in
4 section 1861(s)(9));

5 “(4) home dialysis supplies and equipment (as
6 described in section 1861(s)(2)(F));

7 “(5) surgical dressings and other devices (as
8 described in section 1861(s)(5));

9 “(6) immunosuppressive drugs (as described in
10 section 1861(s)(2)(J)); and

11 “(7) such other items as the Secretary may de-
12 termine.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall apply to items furnished on
15 or after January 1, 1994.

16 (b) DEVELOPMENT AND APPLICATION OF NATIONAL
17 STANDARDS FOR SUPPLIERS OF MEDICAL EQUIPMENT
18 AND SUPPLIES.—Section 1834 (42 U.S.C. 1395m) is
19 amended by adding at the end the following new sub-
20 section:

21 “(i) REQUIREMENTS FOR ISSUANCE AND RENEWAL
22 OF SUPPLIER NUMBERS FOR SUPPLIERS OF MEDICAL
23 EQUIPMENT AND SUPPLIES.—

24 “(1) PAYMENT.—No payment may be made
25 under this part after July 1, 1994, for items fur-

1 nished by a supplier of medical equipment and sup-
2 plies (as defined in section 1861(oo)) unless such
3 supplier meets the national standards specified by
4 the Secretary and possesses a valid supplier number.

5 “(2) REVISED STANDARDS.—

6 “(A) IN GENERAL.—Not later than Janu-
7 ary 1, 1996, the Secretary shall, in consultation
8 with representatives of suppliers of medical
9 equipment and supplies, carriers, and consum-
10 ers, revise the national standards for suppliers
11 of medical equipment and supplies to include
12 the requirements listed in subparagraph (B).

13 “(B) STANDARDS DESCRIBED.—The re-
14 quirements listed in this subparagraph are that
15 suppliers of medical equipment and supplies
16 shall—

17 “(i) comply with all applicable State
18 and Federal licensure and regulatory re-
19 quirements;

20 “(ii) maintain a physical facility on an
21 appropriate site;

22 “(iii) have proof of appropriate liabil-
23 ity insurance; and

24 “(iv) meet such other requirements as
25 the Secretary may specify.

1 “(C) APPLICABILITY OF REVISED STAND-
2 ARDS.—Beginning after December 31, 1995,
3 each supplier of medical equipment and supplies
4 applying for a supplier number or renewing
5 such supplier’s supplier number shall meet the
6 revised standards described in this paragraph.”.

7 (c) CERTIFICATES OF MEDICAL NECESSITY.—

8 (1) IN GENERAL.—Section 1834 (42 U.S.C.
9 1395m), as amended by subsection (b), is amend-
10 ed—

11 (A) in subsection (a), by striking para-
12 graph (16), and

13 (B) by adding at the end the following new
14 subsection:

15 “(j) CERTIFICATES OF MEDICAL NECESSITY.—

16 “(1) STANDARDIZED CERTIFICATES.—Not later
17 than July 1, 1994, the Secretary shall, in consulta-
18 tion with carriers under this part, develop one or
19 more standardized certificates of medical necessity
20 (as defined in paragraph (3)) for medical equipment
21 and supplies (as defined in section 1861(o) other
22 than paragraphs (4), (6), and (7)). If a certificate
23 of medical necessity is required by the Secretary,
24 such standardized certificates shall—

1 “(A) be completed by each physician who
2 prescribes such medical equipment and supplies
3 for any beneficiary under this part, and

4 “(B) be transmitted to the supplier and
5 then to the carrier processing the claim for pay-
6 ment for such medical equipment and supplies
7 under this part.

8 “(2) PROHIBITION AGAINST DISTRIBUTION BY
9 SUPPLIERS OF CERTIFICATES OF MEDICAL NECES-
10 SITY.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), a supplier of medical equip-
13 ment and supplies described in paragraph (1)
14 may not distribute to physicians or to individ-
15 uals entitled to benefits under this part for
16 commercial purposes any completed or partially
17 completed certificates of medical necessity.

18 “(B) EXCEPTION FOR CERTAIN BILLING
19 INFORMATION.—Subparagraph (A) shall not
20 apply with respect to a certificate of medical ne-
21 cessity to the extent that such certificate con-
22 tains only information completed by the sup-
23 plier of medical equipment and supplies identi-
24 fying such supplier and the beneficiary to whom
25 such medical equipment and supplies are fur-

1 nished, a description of such medical equipment
2 and supplies, any product code identifying such
3 medical equipment and supplies, and any other
4 administrative information identified by the
5 Secretary. In the event a supplier provides a
6 certificate of medical necessity containing infor-
7 mation permitted under this subparagraph,
8 such certificate shall also contain the supplier's
9 charge and the fee schedule amount for the
10 medical equipment or supplies being furnished
11 prior to distribution of such certificate to the
12 physician.

13 “(C) PENALTY.—Any supplier of medical
14 equipment and supplies who knowingly and will-
15 fully distributes a certificate of medical neces-
16 sity in violation of subparagraph (A) is subject
17 to a civil money penalty in an amount not to
18 exceed \$1,000 for each such certificate of medi-
19 cal necessity so distributed. The provisions of
20 section 1128A (other than subsections (a) and
21 (b)) shall apply to civil money penalties under
22 this subparagraph in the same manner as they
23 apply to a penalty or proceeding under section
24 1128A(a).

1 “(3) DEFINITION.—For purposes of this sub-
2 section, the term ‘certificate of medical necessity’
3 means a form or other document containing infor-
4 mation required by the Secretary to be submitted to
5 show that a covered item is reasonable and nec-
6 essary for the diagnosis or treatment of illness or in-
7 jury or to improve the functioning of a malformed
8 body member.”.

9 (2) EFFECTIVE DATE.—The amendments made
10 by paragraph (1) shall apply with respect to certifi-
11 cates of medical necessity on or after January 1,
12 1994.

13 (d) COVERAGE AND REVIEW CRITERIA FOR CERTAIN
14 MEDICAL EQUIPMENT AND SUPPLIES.—Section 1834 (42
15 U.S.C. 1395m), as amended by subsection (c), is amended
16 by adding at the end the following new subsection:

17 “(k) COVERAGE AND REVIEW CRITERIA.—

18 “(1) DEVELOPMENT AND ESTABLISHMENT.—
19 Not later than July 1, 1994, the Secretary, in con-
20 sultation with representatives of suppliers of medical
21 equipment and supplies (as defined in section
22 1861(o) other than paragraphs (4), (6), and (7)),
23 individuals enrolled under this part, and appropriate
24 medical specialty societies, shall develop and estab-
25 lish uniform national coverage and utilization review

1 criteria for 200 items of medical equipment and sup-
2 plies (as so defined) selected in accordance with the
3 standards described in paragraph (2). The Secretary
4 shall publish the criteria as part of the instructions
5 provided to fiscal intermediaries and carriers under
6 this part and no further publication, including publi-
7 cation in the Federal Register, shall be required.

8 “(2) STANDARDS FOR SELECTING ITEMS SUB-
9 JECT TO CRITERIA.—The Secretary may select an
10 item for coverage under the criteria developed and
11 established under paragraph (1) if the Secretary
12 finds that—

13 “(A) the item is frequently purchased or
14 rented by beneficiaries;

15 “(B) the item is frequently subject to a de-
16 termination that such item is not medically nec-
17 essary; or

18 “(C) the coverage or utilization criteria ap-
19 plied to the item (as of the date of the enact-
20 ment of this subsection) is not consistent
21 among carriers.

22 “(3) ANNUAL REVIEW AND EXPANSION OF
23 ITEMS SUBJECT TO CRITERIA.—The Secretary shall
24 annually review the coverage and utilization of items
25 of medical equipment and supplies to determine

1 whether items not included among the items selected
2 under paragraph (1) should be made subject to uni-
3 form national coverage and utilization review cri-
4 teria, and, if appropriate, shall develop and apply
5 such criteria to such additional items.

6 “(4) REPORT ON EFFECT OF UNIFORM CRI-
7 TERIA ON UTILIZATION OF ITEMS.—Not later than
8 January 1, 1995, the Secretary shall submit a re-
9 port to the Committee on Ways and Means and the
10 Committee on Energy and Commerce of the House
11 of Representatives and the Committee on Finance of
12 the Senate analyzing the impact of the uniform cri-
13 teria established under paragraph (1) on the utiliza-
14 tion of items of medical equipment and supplies by
15 individuals enrolled under this part.”.

16 (e) PROHIBITION AGAINST MULTIPLE SUPPLIER
17 NUMBERS.—

18 (1) IN GENERAL.—Section 1834 (42 U.S.C.
19 1395m), as amended by subsection (d), is amended
20 by adding at the end the following new subsection:

21 “(l) PROHIBITION AGAINST MULTIPLE SUPPLIER
22 NUMBERS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND
23 SUPPLIES.—The Secretary may not issue more than one
24 supplier number to any supplier of medical equipment and
25 supplies (as defined in section 1861(oo)) unless the issu-

1 ance of more than one number is appropriate to identify
2 subsidiary or regional entities under the supplier's owner-
3 ship or control.''.
4

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall apply to items furnished on
7 or after July 1, 1994.

8 (f) DEFINITION OF INDUCEMENTS AS KICKBACKS
9 CLARIFIED.—

10 (1) IN GENERAL.—Section 1128B(b)(3)(B) (42
11 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting
12 before the semicolon “(except that in the case of a
13 contract supply arrangement between a skilled nurs-
14 ing facility and a supplier of medical supplies and
15 equipment (as defined in section 1861(oo) other
16 than paragraphs (4), (6), and (7)), such employment
17 shall not be considered bona fide to the extent that
18 it includes tasks of a clerical and cataloging nature
19 in transmitting to suppliers assignment rights of in-
20 dividuals eligible for benefits under part B of title
21 XVIII, or performance of warehousing or stock in-
22 ventory functions)’’.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall apply with respect to services
25 furnished on or after January 1, 1994.

(g) LIMITATION ON BENEFICIARY LIABILITY.—

1 (1) IN GENERAL.—Section 1879 (42 U.S.C.
2 1395pp) is amended by adding at the end the follow-
3 ing new subsection:

4 “(h) If a supplier of medical equipment and supplies
5 (as defined in section 1861(oo))—

6 “(1) furnishes an item or service to a bene-
7 ficiary for which no payment may be made by reason
8 of section 1834(i);

9 “(2) furnishes an item or service to a bene-
10 ficiary for which payment is denied in advance under
11 section 1834(a)(15);

12 “(3) is excluded from participation under this
13 title; or

14 “(4) furnishes an item or service to a bene-
15 ficiary for which payment is denied under section
16 1862(a)(1);

17 any expenses incurred for items and services furnished to
18 an individual by such a supplier on an unassigned basis
19 shall be the responsibility of such supplier. The individual
20 shall have no financial responsibility for such expenses and
21 the supplier shall refund on a timely basis to the individual
22 (and shall be liable to the individual for) any amounts col-
23 lected from the individual for such items or services, un-
24 less the supplier informs the individual in advance that
25 payment under this part will not be made for the item

1 or services and the individual agrees to pay for the item
2 or service.”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply to items or services
5 furnished on or after July 1, 1994.

6 (h) STUDIES.—

7 (1) SUPPLIES AND SERVICES IN NURSING FA-
8 CILITIES.—The Comptroller General of the United
9 States shall conduct a study and report to the Con-
10 gress no later than January 1, 1995, on the types,
11 volume, and utilization of services and supplies fur-
12 nished under contract or under arrangement with
13 suppliers to individuals eligible for benefits under
14 title XVIII of the Social Security Act residing in
15 skilled nursing facilities and nursing facilities.

16 (2) DESCRIPTIONS RELATING TO CERTAIN
17 CODES.—The Comptroller General of the United
18 States shall conduct a study beginning no earlier
19 than July 1, 1994, and report to the Congress no
20 later than January 1, 1995, on—

21 (A) whether changes made by the Depart-
22 ment of Health and Human Services to the de-
23 scriptions relating to the codes for medical
24 equipment and supplies (as defined in section

1 1861(o) of the Social Security Act other than
 2 paragraphs (4), (6), and (7))—

3 (i) accurately reflect the items being
 4 furnished under such codes, and

5 (ii) are sufficiently explicit to distin-
 6 guish between items of varying quality and
 7 price, and

8 (B) recommendations for additional
 9 changes that would improve the descriptions re-
 10 lating to the codes for such items.

11 **SEC. 5. ADJUSTMENTS TO DISCRETIONARY SPENDING LIM-**
 12 **ITS.**

13 (a) ADJUSTMENTS.—Section 251(b)(2) of the Bal-
 14 anced Budget and Emergency Deficit Control Act of 1985
 15 is amended by redesignating subparagraphs (E) and (F)
 16 as subparagraphs (F) and (G), respectively, and by insert-
 17 ing after subparagraph (D) the following new subpara-
 18 graph:

19 “(E) MEDICARE ADMINISTRATIVE
 20 COSTS.—To the extent that appropriations are
 21 enacted that provide additional new budget au-
 22 thority (as compared with a base level of
 23 \$1,526,000,000 for new budget authority) for
 24 the administration of the Medicare program by
 25 fiscal intermediaries and carriers pursuant to

sections 1816 and 1842(a) of title XVIII of the Social Security Act, the adjustment for that year shall be that amount, but shall not exceed—

“(i) for fiscal year 1994,
\$198,000,000 in new budget authority and
\$198,000,000 in outlays; and

“(ii) for fiscal year 1995,
\$220,000,000 in new budget authority and
\$220,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority and additional adjustments equal to the sum of the maximum adjustments that could have been made in preceding fiscal years under this subparagraph.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 603(a) of the Congressional Budget Act of 1974 is amended by striking “section 251(b)(2)(E)(i)” and inserting “section 251(b)(2)(F)(i)”.

(2) Section 606(d) of the Congressional Budget Act of 1974 is amended—

(A) in paragraph (1)(A) by striking “section 251(b)(2)(E)(i)” and inserting “section 251(b)(2)(F)(i)”;

and

1 (B) in paragraph (2), by inserting
2 “251(b)(2)(E),” after “251(b)(2)(D),”.

3 **SEC. 6. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-**
4 **SURANCE POLICIES.**

5 (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL
6 POLICIES.—

7 (1) Section 4351 of the Omnibus Budget Rec-
8 onciliation Act of 1990 (Public Law 101–508),
9 (hereafter in this Act referred to as “OBRA–1990”)
10 is amended by striking “(a) IN GENERAL.—”.

11 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is
12 amended—

13 (A) in paragraph (1)(A)—

14 (i) by striking “promulgates” and in-
15 serting “changes the revised NAIC Model
16 Regulation (described in subsection (m)) to
17 incorporate”,

18 (ii) by striking “(such limitations, lan-
19 guage, definitions, format, and standards
20 referred to collectively in this subsection as
21 ‘NAIC standards’),”, and

22 (iii) by striking “included a reference
23 to the NAIC standards” and inserting
24 “were a reference to the revised NAIC
25 Model Regulation as changed under this

1 subparagraph (such changed regulation re-
2 ferred to in this section as the ‘1991 NAIC
3 Model Regulation’));

4 (B) in paragraph (1)(B)—

5 (i) by striking “promulgate NAIC
6 standards” and inserting “make the
7 changes in the revised NAIC Model Regu-
8 lation”,

9 (ii) by striking “limitations, language,
10 definitions, format, and standards de-
11 scribed in clauses (i) through (iv) of such
12 subparagraph (in this subsection referred
13 to collectively as ‘Federal standards’)” and
14 inserting “a regulation”, and

15 (iii) by striking “included a reference
16 to the Federal standards” and inserting
17 “were a reference to the revised NAIC
18 Model Regulation as changed by the Sec-
19 retary under this subparagraph (such
20 changed regulation referred to in this sec-
21 tion as the ‘1991 Federal Regulation’)”;

22 (C) in paragraph (1)(C)(i), by striking
23 “NAIC standards or the Federal standards”
24 and inserting “1991 NAIC Model Regulation or
25 1991 Federal Regulation”;

1 (D) in paragraphs (1)(C)(ii)(I), (1)(E),
2 (2), and (9)(B), by striking “NAIC or Federal
3 standards” and inserting “1991 NAIC Model
4 Regulation or 1991 Federal Regulation”;

5 (E) in paragraph (2)(C), by striking
6 “(5)(B)” and inserting “(4)(B)”;

7 (F) in paragraph (4)(A)(i), by inserting
8 “or paragraph (6)” after “(B)”;

9 (G) in paragraph (4), by striking “applica-
10 ble standards” each place it appears and insert-
11 ing “applicable 1991 NAIC Model Regulation
12 or 1991 Federal Regulation”;

13 (H) in paragraph (6), by striking “in re-
14 gard to the limitation of benefits described in
15 paragraph (4)” and inserting “described in
16 clauses (i) through (iii) of paragraph (1)(A)”;

17 (I) in paragraph (7), by striking “policy-
18 holder” and inserting “policyholders”;

19 (J) in paragraph (8), by striking “after the
20 effective date of the NAIC or Federal standards
21 with respect to the policy, in violation of the
22 previous requirements of this subsection” and
23 inserting “on and after the effective date speci-
24 fied in paragraph (1)(C) (but subject to para-
25 graph (10)), in violation of the applicable 1991

1 NAIC Model Regulation or 1991 Federal Regu-
 2 lation insofar as such regulation relates to the
 3 requirements of subsection (o) or (q) or clause
 4 (i), (ii), or (iii) of paragraph (1)(A)’’;

5 (K) in paragraph (9), by adding at the end
 6 the following new subparagraph:

7 “(D) Subject to paragraph (10), this paragraph shall
 8 apply to sales of policies occurring on or after the effective
 9 date specified in paragraph (1)(C).’’; and

10 (L) in paragraph (10), by striking “this
 11 subsection” and inserting “paragraph
 12 (1)(A)(i)’’.

13 (b) GUARANTEED RENEWABILITY.—Section 1882(q)
 14 (42 U.S.C. 1395ss(q)) is amended—

15 (1) in paragraph (2), by striking “paragraph
 16 (2)” and inserting “paragraph (4)”, and

17 (2) in paragraph (4), by striking “the succeed-
 18 ing issuer” and inserting “issuer of the replacement
 19 policy”.

20 (c) ENFORCEMENT OF STANDARDS.—

21 (1) Section 1882(a)(2) (42 U.S.C.
 22 1395ss(a)(2)) is amended—

23 (A) in subparagraph (A), by striking
 24 “NAIC standards or the Federal standards”

1 and inserting “1991 NAIC Model Regulation or
2 1991 Federal Regulation”, and

3 (B) by striking “after the effective date of
4 the NAIC or Federal standards with respect to
5 the policy” and inserting “on and after the ef-
6 fective date specified in subsection (p)(1)(C)”.

7 (2) The sentence in section 1882(b)(1) added
8 by section 4353(c)(5) of OBRA-1990 is amended—

9 (A) by striking “The report” and inserting
10 “Each report”,

11 (B) by inserting “and requirements” after
12 “standards”,

13 (C) by striking “and” after “compliance,”,
14 and

15 (D) by striking the comma after “Commis-
16 sioners”.

17 (3) Section 1882(g)(2)(B) (42 U.S.C.
18 1395ss(g)(2)(B)) is amended by striking “Panel”
19 and inserting “Secretary”.

20 (4) Section 1882(b)(1) (42 U.S.C.
21 1395ss(b)(1)) is amended by striking “the the Sec-
22 retary” and inserting “the Secretary”.

23 (d) PREVENTING DUPLICATION.—

24 (1) Section 1882(d)(3)(A) (42 U.S.C.
25 1395ss(d)(3)(A)) is amended—

1 (A) by amending the first sentence to read
2 as follows:

3 “(i) It is unlawful for a person to sell or issue to an
4 individual entitled to benefits under part A or enrolled
5 under part B of this title—

6 “(I) a health insurance policy with knowledge
7 that the policy duplicates health benefits to which
8 the individual is otherwise entitled under this title or
9 title XIX,

10 “(II) a medicare supplemental policy with
11 knowledge that the individual is entitled to benefits
12 under another medicare supplemental policy, or

13 “(III) a health insurance policy (other than a
14 medicare supplemental policy) with knowledge that
15 the policy duplicates health benefits to which the in-
16 dividual is otherwise entitled, other than benefits to
17 which the individual is entitled under a requirement
18 of State or Federal law.”;

19 (B) by designating the second sentence as
20 clause (ii) and, in such clause, by striking “the
21 previous sentence” and inserting “clause (i)”;

22 (C) by designating the third sentence as
23 clause (iii) and, in such clause—

24 (i) by striking “the previous sentence”
25 and inserting “clause (i) with respect to

1 the sale of a medicare supplemental pol-
2 icy”, and

3 (ii) by striking “and the statement”
4 and all that follows up to the period at the
5 end; and

6 (D) by striking the last sentence.

7 (2) Section 1882(d)(3)(B) (42 U.S.C.
8 1395ss(d)(3)(B)) is amended—

9 (A) in clause (ii)(II), by striking “65 years
10 of age or older”,

11 (B) in clause (iii)(I), by striking “another
12 medicare” and inserting “a medicare”,

13 (C) in clause (iii)(I), by striking “such a
14 policy” and inserting “a medicare supplemental
15 policy”,

16 (D) in clause (iii)(II), by striking “another
17 policy” and inserting “a medicare supplemental
18 policy”, and

19 (E) by amending subclause (III) of clause
20 (iii) to read as follows:

21 “(III) If the statement required by clause (i) is ob-
22 tained and indicates that the individual is entitled to any
23 medical assistance under title XIX, the sale of the policy
24 is not in violation of clause (i) (insofar as such clause re-
25 lates to such medical assistance), if a State medicaid plan

1 under such title pays the premiums for the policy, or, in
 2 the case of a qualified medicare beneficiary described in
 3 section 1905(p)(1), if the State pays less than the full
 4 amount of medicare cost-sharing as described in subpara-
 5 graphs (B), (C), and (D) of section 1905(p)(3) for such
 6 individual.”.

7 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.
 8 1395ss(d)(3)(C)) is amended—

9 (i) by striking “the selling” and inserting
 10 “(i) the sale or issuance”, and

11 (ii) by inserting before the period at the
 12 end the following: “, (ii) the sale or issuance of
 13 a policy or plan described in subparagraph
 14 (A)(i)(I) (other than a medicare supplemental
 15 policy to an individual entitled to any medical
 16 assistance under title XIX) under which all the
 17 benefits are fully payable directly to or on be-
 18 half of the individual without regard to other
 19 health benefit coverage of the individual but
 20 only if (for policies sold or issued more than 60
 21 days after the date the statements are pub-
 22 lished or promulgated under subparagraph (D))
 23 there is disclosed in a prominent manner as
 24 part of (or together with) the application the
 25 applicable statement (specified under subpara-

graph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual”.

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

“(D)(i) If—

“(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits) which are sold to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

1 “(II) the Secretary approves all the statements
2 submitted as meeting the requirements of subclause
3 (I),

4 each such statement shall be (for purposes of subpara-
5 graph (C)) the statement specified under this subpara-
6 graph for the type of policy involved. The Secretary shall
7 review and approve (or disapprove) all the statements sub-
8 mitted under subclause (I) within 30 days after the date
9 of their submittal. Upon approval of such statements, the
10 Secretary shall publish such statements.

11 “(ii) If the Secretary does not approve the statements
12 under clause (i) or the statements are not submitted with-
13 in the 90-day period specified in such clause, the Secretary
14 shall promulgate (after consultation with consumer and
15 insurance industry representatives and not later than 90
16 days after the date of disapproval or the end of such 90-
17 day period (as the case may be)) a statement for each
18 of the types of health insurance policies (other than medi-
19 care supplemental policies and including, as separate types
20 of policies, policies paying directly to the beneficiary fixed,
21 cash benefits) which are sold to persons entitled to health
22 benefits under this title, of the extent to which benefits
23 payable under the policy or plan duplicate benefits under
24 this title, and each such statement shall be (for purposes

1 of subparagraph (C)) the statement specified under this
 2 subparagraph for the type of policy involved.”.

3 (C) The requirement of a disclosure under sec-
 4 tion 1882(d)(3)(C)(ii) of the Social Security Act
 5 shall not apply to an application made for a policy
 6 or plan before 60 days after the date of the Sec-
 7 retary of Health and Human Services publishes or
 8 promulgates all the statements under section
 9 1882(d)(3)(D) of such Act.

10 (4) Subparagraphs (A) and (B) of section
 11 1882(q)(5) are amended by striking “of the Social
 12 Security Act”.

13 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

14 (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is
 15 amended—

16 (A) in paragraph (1), by striking “or sold”
 17 and inserting “or renewed (or otherwise provide
 18 coverage after the date described in subsection
 19 (p)(1)(C))”;

20 (B) in paragraph (1)(A), by inserting “for
 21 periods after the effective date of these provi-
 22 sions” after “the policy can be expected”;

23 (C) in paragraph (1)(A), by striking
 24 “Commissioners,” and inserting “Commis-
 25 sioners)”;

1 (D) in paragraph (1)(B), by inserting be-
2 fore the period at the end the following: “,
3 treating policies of the same type as a single
4 policy for each standard package”;

5 (E) by adding at the end of paragraph (1)
6 the following: “For the purpose of calculating
7 the refund or credit required under paragraph
8 (1)(B) for a policy issued before the date speci-
9 fied in subsection (p)(1)(C), the refund or cred-
10 it calculation shall be based on the aggregate
11 benefits provided and premiums collected under
12 all such policies issued by an insurer in a State
13 (separated as to individual and group policies)
14 and shall be based only on aggregate benefits
15 provided and premiums collected under such
16 policies after the date specified in section
17 6(m)(4) of the Essential Medicare Amendments
18 of 1993.”;

19 (F) in the first sentence of paragraph
20 (2)(A), by striking “by policy number” and in-
21 serting “by standard package”;

22 (G) by striking the second sentence of
23 paragraph (2)(A) and inserting the following:
24 “Paragraph (1)(B) shall not apply to a policy
25 until 12 months following issue.”;

1 (H) in the last sentence of paragraph
2 (2)(A), by striking “in order” and all that fol-
3 lows through “are effective”;

4 (I) by adding at the end of paragraph
5 (2)(A), the following new sentence: “In the case
6 of a policy issued before the date specified in
7 subsection (p)(1)(C), paragraph (1)(B) shall
8 not apply until 1 year after the date specified
9 in section 6(m)(4) of the Essential Medicare
10 Amendments of 1993.”;

11 (J) in paragraph (2), by striking “policy
12 year” each place it appears and inserting “cal-
13 endar year”;

14 (K) in paragraph (4), by striking “Feb-
15 ruary”, “disallowance”, “loss-ratios” each place
16 it appears, and “loss-ratio” and inserting “Oc-
17 tober”, “disallowance”, “loss ratios”, and “loss
18 ratio”, respectively;

19 (L) in paragraph (6)(A), by striking “is-
20 sues a policy in violation of the loss ratio re-
21 quirements of this subsection” and “such viola-
22 tion” and inserting “fails to provide refunds or
23 credits as required in paragraph (1)(B)” and
24 “policy issued for which such failure occurred”,
25 respectively; and

1 (M) in paragraph (6)(B), by striking “to
 2 policyholders” and inserting “to the policy-
 3 holder or, in the case of a group policy, to the
 4 certificate holder”.

5 (2) Section 1882(b)(1) (42 U.S.C.
 6 1395ss(b)(1)) is amended, in the matter after sub-
 7 paragraph (H), by striking “subsection (F)” and in-
 8 serting “subparagraph (F)”.

9 (3) Section 4355(d) of OBRA-1990 is amended
 10 by striking “sold or issued” and all that follows and
 11 inserting “issued or renewed (or otherwise providing
 12 coverage after the date described in section
 13 1882(p)(1)(C) of the Social Security Act) on or after
 14 the date specified in section 1882(p)(1)(C) of such
 15 Act.”.

16 (f) TREATMENT OF HMO’S.—

17 (1) Section 1882(g)(1) (42 U.S.C.
 18 1395ss(g)(1)) is amended by striking “a health
 19 maintenance organization or other direct service or-
 20 ganization” and all that follows through “1833” and
 21 inserting “an eligible organization (as defined in sec-
 22 tion 1876(b)) if the policy or plan provides benefits
 23 pursuant to a contract under section 1876 or an ap-
 24 proved demonstration project described in section
 25 603(c) of the Social Security Amendments of 1983,

1 section 2355 of the Deficit Reduction Act of 1984,
 2 or section 9412(b) of the Omnibus Budget Reconcili-
 3 ation Act of 1986 or, during the period beginning on
 4 the date specified in subsection (p)(1)(C) and ending
 5 on December 31, 1994, a policy or plan of an orga-
 6 nization if the policy or plan provides benefits pursu-
 7 ant to an agreement under section 1833(a)(1)(A)’’.

8 (2) Section 4356(b) of OBRA–1990 is amended
 9 by striking ‘‘on the date of the enactment of this
 10 Act’’ and inserting ‘‘on the date specified in section
 11 1882(p)(1)(C) of the Social Security Act’’.

12 (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-
 13 tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—

14 (1) in paragraph (2)(A), by striking ‘‘for which
 15 an application is submitted’’ and inserting ‘‘in the
 16 case of an individual for whom an application is sub-
 17 mitted prior to or’’,

18 (2) in paragraph (2)(A), by striking ‘‘in which
 19 the individual (who is 65 years of age or older) first
 20 is enrolled for benefits under part B’’ and inserting
 21 ‘‘as of the first day on which the individual is 65
 22 years of age or older and is enrolled for benefits
 23 under part B’’, and

24 (3) in paragraph (2)(B), by striking ‘‘before it’’
 25 and inserting ‘‘before the policy’’.

1 (h) MEDICARE SELECT POLICIES.—

2 (1) Section 1882(t) (42 U.S.C. 1395ss(t)) is
3 amended—

4 (A) in paragraph (1), by inserting “medi-
5 care supplemental” after “If a”,

6 (B) in paragraph (1), by striking “NAIC
7 Model Standards” and inserting “1991 NAIC
8 Model Regulation or 1991 Federal Regulation”,

9 (C) in paragraph (1)(A), by inserting “or
10 agreements” after “contracts”,

11 (D) in subparagraphs (E)(i) and (F) of
12 paragraph (1), by striking “NAIC standards”
13 and inserting “standards in the 1991 NAIC
14 Model Regulation or 1991 Federal Regulation”,
15 and

16 (E) in paragraph (2), by inserting “the is-
17 suer” before “is subject to a civil money pen-
18 alty”.

19 (2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-
20 3(a)(4)(B)) is amended—

21 (A) by inserting “that is” after “(or”, and

22 (B) by striking “1882(t)” and inserting
23 “1882(t)(3)”.

24 (i) HEALTH INSURANCE COUNSELING.—Section
25 4360 of OBRA-1990 is amended—

1 (1) in subsection (b)(2)(A)(ii), by striking
2 “Act” and inserting “Act”);

3 (2) in subsection (b)(2)(D), by striking “serv-
4 ices” and inserting “counseling”;

5 (3) in subsection (b)(2)(I), by striking “assist-
6 ance” and inserting “referrals”;

7 (4) in subsection (c)(1), by striking “and that
8 such activities will continue to be maintained at such
9 level”;

10 (5) in subsection (d)(3), by striking “to the
11 rural areas” and inserting “eligible individuals resid-
12 ing in rural areas”;

13 (6) in subsection (e)—

14 (A) by striking “subsection (c) or (d)” and
15 inserting “this section”,

16 (B) by striking “and annually thereafter,
17 issue an annual report” and inserting “and an-
18 nually thereafter during the period of the grant,
19 issue a report”, and

20 (C) in paragraph (1), by striking “State-
21 wide”;

22 (7) in subsection (f), by striking paragraph (2)
23 and by redesignating paragraphs (3) through (5) as
24 paragraphs (2) through (4), respectively; and

1 (8) by redesignating the second subsection (f)
2 (relating to authorization of appropriations for
3 grants) as subsection (g).

4 (j) TELEPHONE INFORMATION SYSTEM.—

5 (1) Section 1804 (42 U.S.C. 1395b-2) is
6 amended—

7 (A) by adding at the end of the heading
8 the following: “; MEDICARE AND MEDIGAP IN-
9 FORMATION”,

10 (B) by inserting “(a)” after “1804.”, and

11 (C) by adding at the end the following new
12 subsection:

13 “(b) The Secretary shall provide information via a
14 toll-free telephone number on the programs under this
15 title.”.

16 (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is
17 amended by adding at the end the following new
18 paragraph:

19 “(3) The Secretary shall provide information via a
20 toll-free telephone number on medicare supplemental poli-
21 cies (including the relationship of State programs under
22 title XIX to such policies).”.

23 (3) Section 1889 is repealed.

24 (k) MAILING OF POLICIES.—Section 1882(d)(4) (42
25 U.S.C. 1395ss(d)(4)) is amended—

1 (1) in subparagraph (D), by striking “, if such
2 policy” and all that follows up to the period at the
3 end, and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(E) Subparagraph (A) shall not apply in the case
7 of an issuer who mails or causes to be mailed a policy,
8 certificate, or other matter solely to comply with the re-
9 quirements of subsection (q).”.

10 (l) EFFECTIVE DATE.—The amendments made by
11 this section shall be effective as if included in the enact-
12 ment of OBRA–1990; except that—

13 (1) the amendments made by subsection (d)(1)
14 shall take effect on the date of the enactment of this
15 Act, but no penalty shall be imposed under section
16 1882(d)(3)(A) of the Social Security Act (for an ac-
17 tion occurring after the effective date of the amend-
18 ments made by section 4354 of OBRA–1990 and be-
19 fore the date of the enactment of this Act) with re-
20 spect to the sale or issuance of a policy which is not
21 unlawful under section 1882(d)(3)(A)(i)(II) of the
22 Social Security Act (as amended by this section);

23 (2) the amendments made by subsection
24 (d)(2)(A) and by subparagraphs (A), (B), and (E)

1 of subsection (e)(1) shall be effective on the date
2 specified in subsection (m)(4); and

3 (3) the amendment made by subsection (g)(2)
4 shall take effect on January 1, 1994, and shall apply
5 to individuals who attain 65 years of age or older on
6 or after the effective date of section 1882(s)(2) of
7 the Social Security Act (and, in the case of individ-
8 uals who attained 65 years of age after such effec-
9 tive date and before January 1, 1995, and who were
10 not covered under such section before January 1,
11 1995, the 6-month period specified in that section
12 shall begin January 1, 1995).

13 (m) TRANSITION PROVISIONS.—

14 (1) IN GENERAL.—If the Secretary of Health
15 and Human Services identifies a State as requiring
16 a change to its statutes or regulations to conform its
17 regulatory program to the changes made by this sec-
18 tion, the State regulatory program shall not be con-
19 sidered to be out of compliance with the require-
20 ments of section 1882 of the Social Security Act due
21 solely to failure to make such change until the date
22 specified in paragraph (4).

23 (2) NAIC STANDARDS.—If, within 6 months
24 after the date of the enactment of this Act, the Na-
25 tional Association of Insurance Commissioners (in

1 this subsection referred to as the “NAIC”) modifies
2 its 1991 NAIC Model Regulation (adopted in July
3 1991) to conform to the amendments made by this
4 section and to delete from section 15C the exception
5 which begins with “unless”, such modifications shall
6 be considered to be part of that Regulation for the
7 purposes of section 1882 of the Social Security Act.

8 (3) SECRETARY STANDARDS.—If the NAIC
9 does not make the modifications described in para-
10 graph (2) within the period specified in such para-
11 graph, the Secretary of Health and Human Services
12 shall make the modifications described in such para-
13 graph and such modifications shall be considered to
14 be part of that Regulation for the purposes of sec-
15 tion 1882 of the Social Security Act.

16 (4) DATE SPECIFIED.—

17 (A) IN GENERAL.—Subject to subpara-
18 graph (B), the date specified in this paragraph
19 for a State is the earlier of—

20 (i) the date the State changes its stat-
21 utes or regulations to conform its regu-
22 latory program to the changes made by
23 this section, or

1 (ii) 1 year after the date the NAIC or
2 the Secretary first makes the modifications
3 under paragraph (2) or (3), respectively.

4 (B) ADDITIONAL LEGISLATIVE ACTION RE-
5 QUIRED.—In the case of a State which the Sec-
6 retary identifies as—

7 (i) requiring State legislation (other
8 than legislation appropriating funds) to
9 conform its regulatory program to the
10 changes made in this section, but

11 (ii) having a legislature which is not
12 scheduled to meet in 1995 in a legislative
13 session in which such legislation may be
14 considered,

15 the date specified in this paragraph is the first
16 day of the first calendar quarter beginning after
17 the close of the first legislative session of the
18 State legislature that begins on or after Janu-
19 ary 1, 1995. For purposes of the previous sen-
20 tence, in the case of a State that has a 2-year
21 legislative session, each year of such session
22 shall be deemed to be a separate regular session
23 of the State legislature.

1 **SEC. 7. EXPANSION AND REVISION OF MEDICARE SELECT**
2 **POLICIES.**

3 (a) PERMITTING MEDICARE SELECT POLICIES IN
4 ALL STATES.—

5 (1) IN GENERAL.—Subsection (c) of section
6 4358 of OBRA–1990 is hereby repealed.

7 (2) CONFORMING AMENDMENT.—Section 4358
8 of OBRA–1990 is amended by redesignating sub-
9 section (d) as subsection (c).

10 (b) REQUIREMENTS OF MEDICARE SELECT POLI-
11 CIES.—Section 1882(t)(1) of the Social Security Act (42
12 U.S.C. 1395ss(t)(1)) is amended to read as follows:

13 “(1)(A) If a medicare supplemental policy meets the
14 1991 NAIC Model Regulation or 1991 Federal Regulation
15 and otherwise complies with the requirements of this sec-
16 tion except that—

17 “(i) the benefits under such policy are re-
18 stricted to items and services furnished by certain
19 entities (or reduced benefits are provided when items
20 or services are furnished by other entities), and

21 “(ii) in the case of a policy described in sub-
22 paragraph (C)(i)—

23 “(I) the benefits under such policy are not
24 one of the groups or packages of benefits de-
25 scribed in subsection (p)(2)(A),

1 “(II) except for nominal copayments im-
2 posed for services covered under part B of this
3 title, such benefits include at least the core
4 group of basic benefits described in subsection
5 (p)(2)(B), and

6 “(III) an enrollee’s liability under such pol-
7 icy for physician’s services covered under part
8 B of this title is limited to the nominal
9 copayments described in subclause (II),
10 the policy shall nevertheless be treated as meeting those
11 standards if the policy meets the requirements of subpara-
12 graph (B).

13 “(B) A policy meets the requirements of this sub-
14 paragraph if—

15 “(i) full benefits are provided for items and
16 services furnished through a network of entities
17 which have entered into contracts or agreements
18 with the issuer of the policy,

19 “(ii) full benefits are provided for items and
20 services furnished by other entities if the services are
21 medically necessary and immediately required be-
22 cause of an unforeseen illness, injury, or condition
23 and it is not reasonable given the circumstances to
24 obtain the services through the network,

25 “(iii) the network offers sufficient access,

1 “(iv) the issuer of the policy has arrangements
2 for an ongoing quality assurance program for items
3 and services furnished through the network,

4 “(v)(I) the issuer of the policy provides to each
5 enrollee at the time of enrollment an explanation
6 of—

7 “(aa) the restrictions on payment under
8 the policy for services furnished other than by
9 or through the network,

10 “(bb) out of area coverage under the
11 policy,

12 “(cc) the policy’s coverage of emergency
13 services and urgently needed care, and

14 “(dd) the availability of a policy through
15 the entity that meets the 1991 Model NAIC
16 Regulation or 1991 Federal Regulation without
17 regard to this subsection and the premium
18 charged for such policy, and

19 “(II) each enrollee prior to enrollment acknowl-
20 edges receipt of the explanation provided under
21 subclause (I), and

22 “(vi) the issuer of the policy makes available to
23 individuals, in addition to the policy described in this
24 subsection, any policy (otherwise offered by the is-
25 suer to individuals in the State) that meets the 1991

1 Model NAIC Regulation or 1991 Federal Regulation
2 and other requirements of this section without re-
3 gard to this subsection.

4 “(C)(i) A policy described in this subparagraph—

5 “(I) is offered by an eligible organization (as
6 defined in section 1876(b)),

7 “(II) is not a policy or plan providing benefits
8 pursuant to a contract under section 1876 or an ap-
9 proved demonstration project described in section
10 603(c) of the Social Security Amendments of 1983,
11 section 2355 of the Deficit Reduction Act of 1984,
12 or section 9412(b) of the Omnibus Budget Reconcili-
13 ation Act of 1986, and

14 “(III) provides benefits which, when combined
15 with benefits which are available under this title, are
16 substantially similar to benefits under policies of-
17 fered to individuals who are not entitled to benefits
18 under this title.

19 “(ii) In making a determination under subclause (III)
20 of clause (i) as to whether certain benefits are substan-
21 tially similar, there shall not be taken into account, except
22 in the case of preventive services, benefits provided under
23 policies offered to individuals who are not entitled to bene-
24 fits under this title which are in addition to the benefits
25 covered by this title and which are benefits an entity must

1 provide in order to meet the definition of an eligible orga-
2 nization under section 1876(b)(1).”.

3 (c) RENEWABILITY OF MEDICARE SELECT POLI-
4 CIES.—Section 1882(q)(1) of the Social Security Act (42
5 U.S.C. 1395ss(q)(1)) is amended—

6 (1) by striking “(1) Each” and inserting
7 “(1)(A) Except as provided in subparagraph (B),
8 each”;

9 (2) by redesignating subparagraphs (A) and
10 (B) as clauses (i) and (ii), respectively; and

11 (3) by adding at the end the following new sub-
12 paragraph:

13 “(B)(i) Except as provided in clause (ii), in the
14 case of a policy that meets the requirements of sub-
15 section (t), an issuer may cancel or nonrenew such
16 policy with respect to an individual who leaves the
17 service area of such policy.

18 “(ii) If an individual described in clause (i)
19 moves to a geographic area where an issuer de-
20 scribed in clause (i), or where an affiliate of such is-
21 suer, is issuing medicare supplemental policies, such
22 individual must be permitted to enroll in any medi-
23 care supplemental policy offered by such issuer or
24 affiliate that provides benefits comparable to or less
25 than the benefits provided in the policy being can-

1 celed or nonrenewed. An individual whose coverage
 2 is canceled or nonrenewed under this subparagraph
 3 shall, as part of the notice of termination or
 4 nonrenewal, be notified of the right to enroll in other
 5 medicare supplemental policies offered by the issuer
 6 or its affiliates.

7 “(iii) For purposes of this subparagraph, the
 8 term ‘affiliate’ shall have the meaning given such
 9 term by the 1991 NAIC Model Regulation.”.

10 (d) CIVIL MONEY PENALTY.—Section 1882(t)(2) of
 11 the Social Security Act (42 U.S.C. 1395ss(t)(2)) is
 12 amended—

13 (1) by striking “(2)” and inserting “(2)(A)”;

14 (2) by redesignating subparagraphs (A), (B),
 15 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-
 16 spectively;

17 (3) in clause (iv), as so redesignated—

18 (A) by striking “paragraph (1)(E)(i)” and
 19 inserting “paragraph (1)(B)(v)(I), and

20 (B) by striking “paragraph (1)(E)(ii)” and
 21 inserting “paragraph (1)(B)(v)(II)”;

22 (4) by striking “the previous sentence” and in-
 23 serting “this subparagraph”; and

24 (5) by adding at the end the following new sub-
 25 paragraph:

1 “(B) If the Secretary determines that an issuer of
2 a policy approved under paragraph (1) has made a mis-
3 representation to the Secretary or has provided the Sec-
4 retary with false information regarding such policy, the
5 issuer is subject to a civil money penalty in an amount
6 not to exceed \$100,000 for each such determination. The
7 provisions of section 1128A (other than the first sentence
8 of subsection (a) and other than subsection (b)) shall
9 apply to a civil money penalty under this subparagraph
10 in the same manner as such provisions apply to a penalty
11 or proceeding under section 1128A(a).”.

12 (e) EFFECTIVE DATES.—

13 (1) NAIC STANDARDS.—If, within 6 months
14 after the date of the enactment of this Act, the Na-
15 tional Association of Insurance Commissioners
16 (hereafter in this subsection referred to as the
17 “NAIC”) makes changes in the 1991 NAIC Model
18 Regulation (as defined in section 1882(p)(1)(A) of
19 the Social Security Act) to incorporate the additional
20 requirements imposed by the amendments made by
21 this section, section 1882(g)(2)(A) of such Act shall
22 be applied in each State, effective for policies issued
23 to policyholders on and after the date specified in
24 paragraph (3), as if the reference to the Model Reg-
25 ulation adopted on June 6, 1979, were a reference

1 to the 1991 NAIC Model Regulation (as so defined)
2 as changed under this paragraph (such changed
3 Regulation referred to in this subsection as the
4 “1994 NAIC Model Regulation”).

5 (2) SECRETARY STANDARDS.—If the NAIC
6 does not make changes in the 1991 NAIC Model
7 Regulation (as so defined) within the 6-month period
8 specified in subsection (e), the Secretary of Health
9 and Human Services (hereafter in this subsection re-
10 ferred to as the “Secretary”) shall promulgate a reg-
11 ulation and section 1882(g)(2)(A) of the Social Se-
12 curity Act shall be applied in each State, effective
13 for policies issued to policyholders on and after the
14 date specified in paragraph (3), as if the reference
15 to the Model Regulation adopted in June 6, 1979,
16 were a reference to the 1991 NAIC Model Regula-
17 tion (as so defined) as changed by the Secretary
18 under this paragraph (such changed Regulation re-
19 ferred to in this subsection as the “1994 Federal
20 Regulation”).

21 (3) DATE SPECIFIED.—

22 (A) IN GENERAL.—Subject to subpara-
23 graph (B), the date specified in this paragraph
24 for a State is the earlier of—

1 (i) the date the State adopts the 1994
2 NAIC Model Regulation or the 1994 Fed-
3 eral Regulation; or

4 (ii) 1 year after the date the NAIC or
5 the Secretary first adopts such regulations.

6 (B) ADDITIONAL LEGISLATIVE ACTION RE-
7 QUIRED.—In the case of a State which the Sec-
8 retary identifies, in consultation with the NAIC,
9 as—

10 (i) requiring State legislation (other
11 than legislation appropriating funds) in
12 order for medicare supplemental policies to
13 meet the 1994 NAIC Model Regulation or
14 the 1994 Federal Regulation, but

15 (ii) having a legislature which is not
16 scheduled to meet in 1995 in a legislative
17 session in which such legislation may be
18 considered,

19 the date specified in this paragraph is the first
20 day of the first calendar quarter beginning after
21 the close of the first legislative session of the
22 State legislature that begins on or after Janu-
23 ary 1, 1995. For purposes of the previous sen-
24 tence, in the case of a State that has a 2-year
25 legislative session, each year of such session

1 shall be deemed to be a separate regular session
2 of the State legislature.

3 **SEC. 8. PSYCHOLOGY SERVICES IN HOSPITALS.**

4 Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is
5 amended by striking “physician;” and inserting “physi-
6 cian, except that a patient receiving qualified psychologist
7 services (as defined in subsection (ii)) may be under the
8 care of a clinical psychologist with respect to such services
9 to the extent permitted under State law;”.

10 **SEC. 9. PAYMENT FOR ANESTHESIA SERVICES FURNISHED**
11 **DIRECTLY OR CONCURRENTLY TO PATIENTS**
12 **IN PROVIDERS.**

13 (a) PAYMENT FOR ANESTHESIA SERVICES FUR-
14 NISHED DIRECTLY OR CONCURRENTLY TO PATIENTS IN
15 PROVIDERS.—After consultation with representatives
16 from professional associations of certified registered nurse
17 anesthetists and anesthesiologists, the Secretary of Health
18 and Human Services shall determine conditions for pay-
19 ment for anesthesia services furnished directly or concur-
20 rently to patients in a provider in accordance with the re-
21 quirements of subsection (b), without regard to section
22 405.552(a) of title 42, Code of Federal Regulations (and
23 without regard to any other regulation, ruling, or decision
24 reaching the same result as, or a result similar to, the

1 result set forth in such section), and with full regard to
2 section 405.550 of such title.

3 (b) REQUIREMENTS.—The requirements of this sub-
4 section are that the conditions for such payment—

5 (1) shall not restrict certified registered nurse
6 anesthetists, who work with anesthesiologists, from
7 performing all the components of the anesthesia
8 service that such anesthetists are legally authorized
9 to perform;

10 (2) shall not encourage the use of 2 anesthesia
11 providers in cases when it is not medically justified;
12 and

13 (3) shall prevent fraud and abuse in payment
14 for anesthesia services.

15 **SEC. 10. IMPROVED REIMBURSEMENT FOR CLINICAL SO-**
16 **CIAL WORKER SERVICES UNDER MEDICARE.**

17 (a) IN GENERAL.—Section 1833(a)(1)(F)(ii) (42
18 U.S.C. 1395l(a)(1)(F)(ii)) is amended to read as follows:
19 “(ii) the amount determined by a fee schedule established
20 by the Secretary.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall become effective with respect to pay-
23 ments made for clinical social worker services furnished
24 on or after January 1, 1994.



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S 1426—O—5

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